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4 October 1955

MEMORANDUM FOR THE RECORD

SUBJECT: Missing Persons Act - Discussion with Department of Defense

1. On 29 September Mr. Pforzheimer and I went to the office of Mr. Richard Buddeke, where we discussed with him and various subordinates the four points that CIA would like to have clarified in Defense's draft.

2. With respect to our proposed language for section 1(a)(3) pertaining to civilian coverage, the following conclusions were reached:

a. The Bureau of the Budget has retreated from its requirement that part-time, hourly or intermittent employees be subject only to limited coverage under the Act. We stated that we had no objection to the broad coverage and would, in fact, prefer it.

b. The final language offered by Defense which would limit the coverage of persons "employed within the Continental limits of the United States" was intended by them to leave full coverage on persons abroad TDY. We expressed our doubts that the present language could be so interpreted. Since the intent is clear and Bureau of the Budget has agreed that persons TDY abroad should be covered, Defense is agreeable to modifying the language so as to remove ambiguity.

c. When they have modified the language or otherwise clarified the intent, Defense will notify us, and we will present a common position to the Bureau of the Budget.

3. Considering our desire to include a clause authorizing the agency head to determine status of dependents, Defense expressed the view that this was not of importance to them and that they felt its inclusion would jeopardize the entire Act. They have agreed, however, to present our position and to request that the Director of Central Intelligence be given this authority. We are to provide Defense with suitable language for this clause and I suggest the following:

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"A dependent of any person in active service, as defined by this Act, with the Central Intelligence Agency, is a 'person' under this Act for the sole purpose of determining status as provided in sections 5 and 9, and any determination under those sections by the Director of Central Intelligence shall be conclusive on all other departments of the Government; Provided, that nothing in this section shall be construed as conferring upon any dependent any right to pay, allowances or other compensation to which not otherwise entitled."

4. On the question of promotion policy for individuals in a missing status, Defense said that they have argued this with Bureau of the Budget for a long time and that the Bureau was not congenial to such a policy. As with the provision above, they felt that any attempt to include it would jeopardize the entire Act. Under their own legislation, they are permitted to give preference to military returnees but not to promote them retroactively. They will investigate and inform us as to the policies and practices they have worked out with regard to civilians and we will see if we cannot work on a similar basis. We agreed to withdraw this provision at this time. Defense is amenable to our jointly notifying the Bureau of the Budget that CIA is interested in a promotion policy for persons in a missing status, for whatever good this may do in future attempts by us to secure special legislation.

5. On the question of conclusiveness, as raised in my memorandum of 22 September 1955, Defense did not know the answer. Their approved practice with military personnel has been not to require repayment of a death gratuity but to charge against the returnee's account any accrued pay and allowances paid to his estate. They promised to investigate this matter further and let us know what present practice conceives the law to be and what, if any, additions might be made in the law to accomplish our purposes.

6. When Defense has investigated these various points, they will call me and we will discuss them further, arriving at a final position for presentation to the Bureau of the Budget. [redacted] suggests that he and I go together, in the absence of Mr. Pforzheimer, to discuss these questions with Roger Jones of the Bureau of the Budget.

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Office of General Counsel

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1 - Mr. Pforzheimer; 1 - OGC Chrono

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